



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

*Replaced RC
11-12-02*

July 12, 1995

TO: Board of Oil, Gas and Mining

THRU: James W. Carter, Director *JWC*

THRU: D. Wayne Hedberg, Permit Supervisor *DWH*

FROM: Tony Gallegos, Senior Reclamation Specialist *aa*

RE: Request for Board Approval, Amount and Form of Reclamation Surety,
Western Clay Company (Western), Last Chance Mine, M/015/061, Emery
County, Utah

The Division seeks Board approvals of the amount and form of reclamation surety provided by Western for the Last Chance mine, located in Emery County, Utah. The form of surety is a Letter of Credit with Utah Independent Bank for the amount of \$40,800. Western has satisfied the Division's permit concerns.

Attached for your review are the following documents:

1. Summary checklist
2. Location map
3. Executive summary
4. Reclamation surety estimate
5. Reclamation Contract
6. Letter of Credit

Thank you for your time and consideration of this request.

Attachments
M015061



STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION of OIL, GAS and MINING
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
(801) 538-5340

RECLAMATION CONTRACT

---ooOoo---

For the purpose of this RECLAMATION CONTRACT the terms below are defined as follows:

"NOTICE OF INTENTION" (NOI): (File No.)	<u>M/015/061</u>
(Mineral Mined)	<u>Bentonite (Clay)</u>
"MINE LOCATION":	
(Name of Mine)	<u>Last Chance</u>
(Description)	<u>Approximately 18 miles south of the</u>
	<u>town of Emery</u>
	<u>Emery County, Utah</u>
"DISTURBED AREA":	
(Disturbed Acres)	<u>10.2</u>
(Legal Description)	<u>(refer to Attachment "A")</u>
"OPERATOR":	
(Company or Name)	<u>Western Clay Company</u>
(Address)	<u>508 East Center</u>
	<u>Aurora, Utah 84620</u>
(Phone)	<u>(801) 529-3281</u>

"OPERATOR'S REGISTERED AGENT":

(Name)

Neal Mortensen

(Address)

405 South Main

Central Valley, Utha 84754

(Phone)

(801) 896-6927

"OPERATOR'S OFFICER(S)":

Fred Mortensen - President

Garin Madsen - Vice President

Neal Mortensen - Secretary/Treasurer

"SURETY":

(Form of Surety - Attachment B)

Letter of Credit

"SURETY COMPANY":

(Name, Policy or Acct. No.)

Utah Independent Bank

"SURETY AMOUNT":

(Escalated Dollars)

\$40,800 amended 9/21/01 to \$51,800

"ESCALATION YEAR":

2000

"STATE":

State of Utah

"DIVISION":

Division of Oil, Gas and Mining

"BOARD":

Board of Oil, Gas and Mining

ATTACHMENTS:

A "DISTURBED AREA":

B "SURETY":

This Reclamation Contract (hereinafter referred to as "Contract") is entered into between Western Clay Company the "Operator" and the Utah State Board of Oil, Gas and Mining ("Board").

WHEREAS, Operator desires to conduct mining operations under Notice of Intention (NOI) File No. M/015/061 which has been approved by the Utah State Division of Oil, Gas and Mining "Division" under the Utah Mined Land Reclamation Act, Sections 40-8-1 et seq., Utah Code Annotated, (1953, as amended) (hereinafter referred to as "Act") and implementing rules; and

WHEREAS, Operator is obligated to reclaim that area described as the Disturbed Area as set forth and in accordance with Operator's approved Reclamation Plan, and Operator is obligated to provide surety in form and amount approved by the Board, to assure reclamation of the Disturbed Area.

NOW, THEREFORE, the Board and the Operator agree as follows:

1. Operator agrees to conduct reclamation of the Disturbed Area in accordance with the Act and implementing regulations, the original Notice of Intention dated January 4, 1994, and the original Reclamation Plan dated January 4, 1994. The Notice of Intention as amended, and the Reclamation Plan, as amended, are incorporated by this reference and made a part hereof.
2. Concurrent with the execution hereof, Operator has provided surety to assure that reclamation is conducted, in form and amount acceptable to the Board. Such surety as evidenced by the Surety Contract is in the form of the surety attached hereto as Attachment B and made a part hereof. The Surety Contract shall remain in full force and effect according to its terms unless modified by the Board in writing. If the Surety Contract expressly provides for cancellation, then, within 60 days following the Division's receipt of notice that the Surety Company intends to cancel the Surety Contract, the Operator shall provide a replacement Surety Contract in a form and amount reasonably acceptable to the Board. If the Operator fails to provide an acceptable replacement Surety Contract, the Division may order the Operator to cease further mining activities and to begin immediate reclamation of the Disturbed Area.
3. Operator agrees to pay legally determined public liability and property damage claims resulting from mining to the extent provided in Section 40-8-7(1)(e) of the Act.
4. Operator agrees to perform all duties and fulfill all reclamation requirements applicable to the mine as required by the Act and implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended.
5. The Operator's liability under this Contract shall continue in full force and effect until the Division certifies that the Operator has reclaimed the Disturbed Area in accordance with the Act and implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended.
6. If reclamation of discrete sections of the Disturbed Area is completed to the satisfaction of the Division, and the Division finds that such sections are severable from the remainder of the Disturbed Area, Operator may request the Division to certify that Operator has reclaimed such discrete sections of the Disturbed Area in accordance with the Act and Implementing rules, the Notice of Intention, as

amended and the Reclamation Plan, as amended. If the Division makes such certification, Operator may make request to the (Board) that the aggregate face amount of the Surety Contract provided pursuant to paragraph 2 be reduced to an amount necessary to provide for completion of the remaining reclamation. The (Board) shall hear Operator's request for such reduction in accordance with the Board's Procedural Rules concerning requests for Agency Action.

7. Operator agrees to indemnify and hold harmless the State, Board and the Division from any claim, demand, liability, cost, charge, suit, or obligation of whatsoever nature arising from the failure of Operator or Operator's agents and employees, or contractors to comply with this Contract.
8. Operator may, at any time, submit a request to the Board to substitute surety. The Board, in its sole judgment and discretion, may approve such substitution if the substitute surety meets the requirements of the Act and the implementing rules.
9. This Contract shall be governed and construed in accordance with the laws of the State of Utah.
10. If Operator shall default in the performance of its obligations hereunder, Operator agrees to pay all costs and expenses, including reasonable attorney's fees and costs incurred by the Division and/or the Board in the enforcement of this Contract.
11. Any breach that the Division finds to be material of the provisions of this Contract by Operator may, at the discretion of the Division, result in an order to cease mining operations. After opportunity for notice and hearing, the Board of Oil, Gas and Mining may enter an order to revoke the Notice of Intention, order reclamation, or order forfeiture of the Surety Contract, or take such other action as is authorized by law.
12. In the event of forfeiture of the Surety Contract, Operator shall be liable for any additional costs in excess of the surety amount which are required to comply with this Contract. Any excess monies resulting from forfeiture of the Surety Contract, upon completion of reclamation and compliance with this Contract, shall be returned to the rightful claimant.
13. This Contract including the Notice of Intention, as amended and the Reclamation Plan, as amended, represents the entire agreement of the parties involved, and any modification must be approved in writing by the parties involved.

14. Each signatory below represents that he/she is authorized to execute this Contract on behalf of the named party.

FRED D. Mortensen
Authorized Officer (Typed or Printed)

Fred D. Mortensen
Authorized Officer's Signature

7/11/95
Date

SO AGREED this 26th day of July, 1995.

AND APPROVED AS TO FORM AND AMOUNT OF SURETY:

BY Dave D. Lauriski
Dave D. Lauriski, Chairman
Utah State Board of Oil, Gas and Mining

DIVISION OF OIL, GAS AND MINING:

By

James W. Carter, Director

Date

July 26, 1995

STATE OF

Utah

)

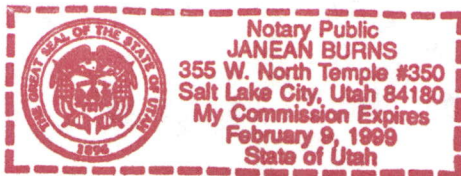
COUNTY OF

Salt Lake

)

ss:

On the 26 day of July, 19 95, personally
appeared before me, who being duly sworn did say that he/she, the said
James W. Carter is the Director of the Division of
Oil, Gas and Mining, Department of Natural Resources, State of Utah, and he/she
duly acknowledged to me that he/she executed the foregoing document by
authority of law on behalf of the State of Utah.



Janean Burns
Notary Public

Residing at:

Salt Lake County

February 9, 1999
My Commission Expires:

OPERATOR:

WESTERN CLAY COMPANY
Operator Name

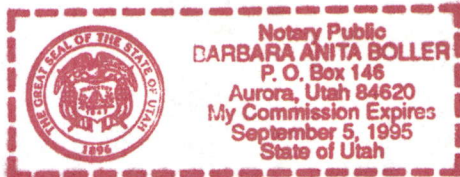
By FRED D. MORTENSEN, PRESIDENT
Corporate Officer - Position

July 11, 1995
Date

Fred D. Mortensen
Signature

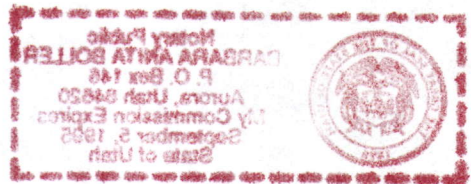
STATE OF Utah)
COUNTY OF Sevier) ss:

On the 11th day of July, 19 95, personally
appeared before me Fred D. Mortensen who
being by me duly sworn did say that he/she, the said Fred D. Mortensen
is the President of Western Clay Company
and duly acknowledged that said instrument was signed on behalf of said company
by authority of its bylaws or a resolution of its board of directors and said
Fred D. Mortensen duly acknowledged to me that said
company executed the same.



Barbara Anita Boller
Notary Public
Residing at: Richfield, Utah

Sept. 5, 1995
My Commission Expires:



ATTACHMENT "A"

Western Clay Company
Operator

Last Chance
Mine Name

M/015/061
Permit Number

Emery County, Utah

The legal description of lands to be disturbed is:

NE/4 Section 7 and the NW/4 Section 8
Township 25 South, Range 6 East, Salt Lake Base Meridian
Emery County, Utah

RECLAMATION ESTIMATE

Western Clay Company

Last Chance Bentonite Mine

M/015/061

Emery County

Prepared by Utah State Division of Oil, Gas & Mining

last revision

03/10/95

filename M15-61.WQ2

BLM UTU-69862

Details of Final Reclamation

- Reclamation consists of earthwork and revegetation; no structures are present
- Trash & debris to be removed to an authorized land fill or disposal area
- Pit backfilled with overburden & waste clay to be nonimpounding
- Topsoil replaced at approximately 1 ft depth on 8.3 acres 13,391 CY est
- Amount of material needed for pit backfill (operators estimate) 114,000 CY
- Borrow area for soil and backfill may be used
- Disturbed areas to be disced, mulched, fertilized, & seeded as requested by the BLM
- Disturbed acreage is 8.6 acres + 1.9 acres of nonvegetated area
- Permit boundary includes 20.2 acres; disturbed area estimated as 10.2 acres by operator
- Estimated total disturbed acreage = 10.2

Activity	Amount	\$/unit	\$
Regrade no vegetation area	1.9 acre	365	694
Backfill pit to be nonimpounding	114,000 CY	0.23	26,220
Place topsoil material(8.3 acres)	13,391 CY	0.23	3,080
Regrade road & remove culvert	0.4 acre	365	146
Remove trash & debris	10.2 acre	100	1,020
Mobilization	1 equip	1,000	1,000
	Subtotal		32,159
	Add 5% supervision		1,608
	Subtotal		33,767
	Add 10% contingency		3,377
	Subtotal in 1995 -\$		37,144
	Add 5 yr escalation at 2.01%		3,886
	Total 2000-\$		41,030

Rounded Total in 2000-\$

\$41,000

Average cost per acre = \$4,020

Operator already posted bond for \$40,800

NOTE: THE \$200 DIFFERENCE BETWEEN THE SURETY POSTED AND THE DIVISION'S ESTIMATE IS NOT SIGNIFICANT ENOUGH TO WARRANT ADJUSTMENT AT THIS TIME.